

# DIRECTIVE

## WORKFORCE INVESTMENT ACT

Number: WIAD05-18

Date: June 14, 2006  
69:43:jw:10005

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: DISLOCATED WORKER 25 PERCENT FUNDING POLICY

### EXECUTIVE SUMMARY:

#### Purpose:

The purpose of this directive is to provide the workforce development community the Dislocated Worker 25 Percent funding policy adopted by the California Workforce Investment Board (CWIB) on May 18, 2004, and updated by this directive.

#### Scope:

This directive applies to Local Workforce Investment Areas (LWIA) and other recipients of the Workforce Investment Act (WIA) Dislocated Worker 25 Percent funds.

#### Effective Date:

This directive is effective on the date of its issuance.

### REFERENCES:

- WIA Sections 101(9) and (38), 133(a)(2), 134(a)(2)(A)
- Title 20 of the Code of Federal Regulations (20 CFR), Part 665
- Department of Labor (DOL) Training and Employment Guidance Letters (TEGL) 17-05, 14-00, and 14-00, Change 1
- WIA Information Bulletin WIAB03-80, Subject: Rapid Response Policy (April 20, 2004)
- WIA Information Bulletin WIAB03-85, Subject: Proposed Dislocated Worker 25 Percent Funding Policy (May 14, 2004)

## **STATE-IMPOSED REQUIREMENTS:**

This directive consists entirely of State-imposed requirements.

## **FILING INSTRUCTIONS:**

This directive supersedes WIA Directive WIAD04-9, dated October 14, 2004, and finalizes WIA Draft Directive WIADD-117, issued for comment on May 5, 2006. The Workforce Investment Division received two (2) comments during the draft comment period. This final directive incorporates substantive comments that are viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. Retain this directive until further notice.

## **BACKGROUND:**

The CWIB established the Dislocated Worker 25 Percent Workgroup (Workgroup) to recommend policy that guides and defines a workforce system that provides effective Rapid Response and ensures timely Additional Assistance to local areas to serve dislocated workers in need.

The initial draft policies and implementation strategies resulting from Workgroup meetings were provided in WIA Information Bulletin [WIAB03-80](#), to allow all interested parties to comment on the Workgroup's recommendations. A compilation of the comments received in response to WIAB03-80 and a summary of those comments were provided to the Workgroup, which resulted in the Workgroup's final recommendations to the CWIB as provided in WIA Information Bulletin [WIAB03-85](#). Additionally, WIAB03-85 provided the Workgroup's agreed upon recommendations for a policy framework for California's Rapid Response system and the following reasons that initiated the need to develop the new policy and procedures:

- To ensure that every LWIA has at least a minimum level of capacity to support Rapid Response.
- To implement a more accurate method, based on more timely information, of allocating resources so that funding follows changing needs.
- To allow more flexibility—with responsibility for implementation and accountability for results—at the local level for blended approaches to Rapid Response, and to remove administrative barriers that create unnecessary separations between “required” and “allowable” activities in the allocation and use of funds.
- To improve the timeliness of resource allocations to local areas by allocating the maximum percentage of resources at the beginning of the year.
- To continue to maintain “Additional Assistance” funding for layoffs occurring during the year that require additional resources.
- To ensure the funding of projects that support the State's priorities.

## **POLICY AND PROCEDURES:**

On May 18, 2004, the CWIB adopted a Dislocated Worker 25 Percent Funding policy, which includes the following components and related recommendations:

### **1. Dislocated Worker 25 Percent Set-aside**

The State will set aside 25 percent of the State's WIA dislocated worker funding for California's Rapid Response System and for Additional Assistance to dislocated workers in the local areas. One-half of the Dislocated Worker 25 Percent set-aside (i.e., 12.5 percent of the State's total dislocated worker allocation) is reserved for Rapid Response activities and one-half (i.e., 12.5 percent) is reserved for Additional Assistance to local areas, as permitted in WIA.

### **2. Rapid Response Funding**

The Rapid Response set-aside funds will be distributed based on a three-part formula and a competitive solicitation as described below:

#### **Formula Allocation:**

- Baseline funding allocated equally among local areas to ensure, at a minimum, that some capacity exists in each local area for the coordination and conduct of Rapid Response activities. Allocations to local areas comprised of more than one county will include an additional allocation of \$50,000 for each additional county. Of the Rapid Response set-aside funds, 30 percent will be reserved for this Baseline funding.
- Layoff-Based funding for LWIAs that serve regions where significant numbers of dislocation events occur. This allocation will be based on quantitative layoff data. Funds will be allocated to local areas in proportion to the number of workers receiving Rapid Response services in response to layoffs reported to the State. This methodology will ensure California meets WIA requirements to provide services to assist groups of workers affected by mass layoffs, permanent business closures, and natural or other disasters. Of the Rapid Response set-aside funds, 45 percent will be reserved for this Layoff-Based funding.
- Hold-Harmless funding to minimize funding losses from year-to-year. A portion of the Rapid Response set-aside will be used to ensure that no local area receives less than 75 percent of their prior-year share of statewide funds distributed for Baseline and Layoff-based activities. This policy also limits any local area's year-over funding increase to 100 percent of their prior-year allocation.

#### **Competitive Solicitation:**

- Competitive-Priorities funding will be awarded to support allowable Rapid Response projects proposed by LWIAs that submit applications according to the Rapid Response priorities recommended by the CWIB and adopted by the

Governor (see Attachment 1). The funds available for these projects will be the balance remaining in the Rapid Response set-aside after formula allocations described above are completed.

**NOTE:** The applications process for Competitive-Priorities funding is being provided in separate yearly directives.

### **3. Additional Assistance Funding**

The funds reserved for Dislocated Worker Additional Assistance (12.5 percent of the State's total dislocated worker funds) will be distributed based on the criteria outlined in Attachment 2.

### **4. Definition of the Role of the Rapid Response System**

The California Rapid Response System's role is to support the state's economy and local economies by:

- Assisting workers to quickly return to productive positions in the labor force;
- Assisting employers to explore alternatives to layoffs through human resource solutions;
- Reducing the economic and social burdens that unemployment adds to employers, workers, and the community; and
- Providing local communities, workforce investment partners, employers, and workers with timely and pertinent information to anticipate and profit from economic development opportunities.

### **USES OF 25 PERCENT FUNDS:**

Attachments 1 and 3 describe the required and allowable uses of Rapid Response funds. The State has expanded the list of activities LWIAs may fund with formula-allocated Rapid Response dollars to include employer outreach and job development activities authorized by WIA regulations Section 667.262(b). These alternative uses of Rapid Response funds for allowable activities, including those covered by Section 667.262(b), do not mitigate the fact that it is the State's policy priority that the full scope of required Rapid Response activities as described in WIA regulations Section 665.310 must be provided in each local area. Attachment 2 and WIA Directive WIAD05-8 describe allowable uses of, and application for, Additional Assistance funds.

The scope of services provided at Rapid Response events is not restricted to the activities described in WIA regulations sections 665.310, 665.320, and 667.262(b) (though only costs of activities described there may be charged to the rapid response account). The LWIAs are encouraged to provide and arrange for providing many other services for the affected workers. Examples are assisting with Unemployment Insurance claims taking, financial assistance counseling and mental health counseling.

**REPORTING:**

Baseline, Layoff-Based, and Hold-Harmless Rapid Response funds will be combined into one Grant Code (540 or 541) in each LWIA's master subgrant and may be spent on required and/or allowable activities. Consequently, LWIAs will combine their reports of expenditure of these funds. They will not need to differentiate between the specific funding sources (Baseline, Layoff-Based, and Hold Harmless) that were used to defray any specific cost. Moreover, starting July 1, 2006, reports will no longer need to specify whether expenditures were for required or allowable Rapid Response activities. This change will be implemented by changed reporting instructions in a separate directive. Required Rapid Response activities are defined in 20 CFR 665.310. Allowable Rapid Response activities are defined in 20 CFR 665.320. Examples of required, allowable and prohibited Rapid Response activities are provided in Attachment 3.

The cost of prohibited activities will not be reimbursed by the State under the Rapid Response Grant Code. These activities must be paid for with other WIA funds or with funds from outside the WIA grant.

**ACTION:**

Make appropriate policy, administrative, and fiscal staff aware of this directive.

**INQUIRIES:**

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799.

/S/ BOB HERMSMEIER  
Chief  
Workforce Investment Division

Attachments

## **Priorities for Rapid Response Competitively Funded Projects Funding Approach**

Beginning with Program Year (PY) 2004–05, the State will award a portion of the Rapid Response reserve funds for Rapid Response Allowable Activities special projects. The competitive solicitation for proposals for these funds will be issued as separate directives.

The State will rate proposals for this funding based on the following factors:

### **WIA and Administrative Requirements**

All proposals for allowable rapid response funding must conform to Workforce Investment Act (WIA) Rapid Response allowable activities (20 CFR 665.320). The State will issue directives each year that will specify whether and the extent to which employer outreach and job development activities authorized by WIA regulations Section 667.262(b) may be funded with Rapid Response special project funds.

Each Local Workforce Investment Area (LWIA) may only receive one Rapid Response Allowable Activities special project grant. Each grant will not exceed \$225,000. Proposals that the State rates highly will be funded. The State will reserve as Additional Assistance any funds not awarded from this segment of Rapid Response funding.

### **Return on Investment (ROI)**

As Rapid Response funding is becoming increasingly limited, the State is requiring that each proposal be evaluated for the return on investment. The following factors will be considered for each proposal:

- Past performance regarding the implementation of past Rapid Response “allowable activity” grants
- Effects/benefits/outcomes
- Exportability
- Cost effectiveness
- Sustainability

### **State Priorities**

The Governor has adopted the following priorities, recommended by the California Workforce Investment Board, for use in awarding 25 Percent Rapid Response Allowable Activities grants in PY 2004–05 and subsequent years.

Lay-off aversion—Funding to develop plans to identify and assist employers at risk of layoffs due to competitive factors.

Local areas identify partnerships with private organizations that provide job training, including employers and/or private training providers, in order to leverage training opportunities for clients and minimize duplication of training efforts.

Local areas establish partnerships with private organizations, such as employers, economic development organizations and Chambers of Commerce, to gather information on changing workforce needs due to changes in the economy to ensure that the WIA funded training is current and relevant.

Innovation—Projects funded under this category are intended to support innovative efforts to expand or redesign local rapid response systems to become more responsive to local businesses—large and small.

Small Business Services—As the majority of California's workforce is employed by small businesses, it is not feasible to provide on-site service to all California businesses that employ less than 10 workers. Therefore, innovation will be required to serve California's small businesses in a systematic manner.

Regional Impact—Projects under this category are intended to support efforts focused on regional industries and labor markets that are identified through funded endeavors (Regional Economies Project, local grants, etc.) as emerging, critical, and/or changing.

## **25 Percent Additional Assistance Funding Approach**

Additional Assistance is state support to Local Workforce Investment Areas (LWIA) without adequate dislocated worker resources to address the effects of disasters, mass layoffs or plant closings or other events that precipitate substantial increases in the number of unemployed individuals. These funds provide opportunities to individuals for the mutual benefit to their quality of life and continuance of the economic growth and recovery of California's regional economies.

Beginning Program Year (PY) 2004–05, the State will award Workforce Investment Act (WIA) 25 Percent funds for Additional Assistance as needed based on the following factors:

### **WIA Legal and Administrative Requirements**

A LWIA may request WIA Dislocated Worker 25 Percent Additional Assistance funds when it does not have other resources to provide direct services to workers affected by mass layoffs, facility closings or natural or other disasters.

To receive funding, the LWIA must complete an application and submit it to the Employment Development Department (EDD). In the application, the LWIA describes the events that have led to the unmet demand for service by the dislocated workers in the local area, the services to be provided, and why existing resources are not adequate to meet the need.

### **Return on Investment (ROI)**

As training funds become increasingly limited the California Workforce Investment Board (CWIB) is requiring that each proposal be evaluated for the return on investment. The following are the factors for consideration:

- Number of WIA eligible dislocated workers to be served;
- Number of who will receive training and the types of training to be provided;
- Average cost per participant;
- Number of participants who will enter employment following training;
- Number of participants who will retain employment for at least six months;
- Projected earnings change after employment;
- Past performance regarding the delivery of dislocated worker services, and
- Past performance on WIA 25 percent grants.



## **Governor's and CWIB's Priorities**

Based on the recommendation of the CWIB, the principal use of the Additional Assistance funds will be to provide the training and services needed by those losing their employment when these needs cannot be met through the dislocated worker funds that are allocated by formula to the LWIA.

The CWIB has also identified the following three priorities that will enhance the continuance of the economic growth and recovery of California's regional economies. Proposals that benefit both the individual and one or more of these priorities are more likely to be funded.

### **1. Growth Industries—High Wage, High Skill Job Training**

Projects in this category will be designed to prepare dislocated workers for high-wage, high skill jobs that help California's businesses succeed and expand. They will address two types of industries: those where current skill shortages are hampering business growth, and those expected to play major roles in the expansion of California's economy, where the hiring of skilled workers for business expansion will be a key priority.

Criteria for projects:

- Target select industry sectors and/or clusters that are significant to the growth and/or stability of the economy. Identify these industries/clusters based on findings from the Regional Economies Project and/or related labor market information.
  - Leverage government and private funding from multi-stakeholders. Local areas expand available services through partnerships with other state and federal programs, such as the California Work Opportunity and Responsibility to Kids Act's (CalWORKS) job training and placement efforts and the Small Business Development Center program.
  - Exhibit a public-private partnership. Local areas identify partnerships with private organizations that provide job training, including employers and/or private training providers, in order to leverage training opportunities for clients and minimize duplication of training efforts.
  - Identify activities that will result in immediate and stable employment for the participants, including on-the-job training.
2. Removing Barriers for Special Needs Populations—Significant segments of California's workers face barriers to achieving and maintaining employment, while many businesses are unable to find both entry-level and skilled workers to fill available jobs. Projects under this category will provide customized services to help

dislocated workers prepare for and gain employment, often in jobs that businesses may otherwise be unable to fill.

Criteria for projects:

- Target special populations that generally have barriers to career advancement (usually underrepresented populations);
  - Upgrade the skill levels of participants for jobs that are in demand.
3. Industries with a Statewide Need—Specific industry sectors, such as health care, have a well-documented shortage of workers. Other sectors, such as bioscience, are experiencing rapid growth that is, in part, dependent upon a skilled workforce prepared to fill the jobs that are being created. These projects will provide the opportunity for dislocated workers to fill specific industry occupations where significant shortages exist, or where such shortages can be projected based on labor market and economic development forecasts.

Criteria for projects:

- Target specific industries that demonstrate a shortage of skilled workers or a high demand for workers.
- Target industries that are crucial to California's economic well being.
- Job training for participants is completed in a limited period of time.

## Required Rapid Response Activities

Section 665.310: What rapid response activities are required?

Rapid response activities must include:

<p>(a) <b>Immediate and on-site contact</b> with the employer, representatives of the affected workers, and the local community, <b><u>which may include an assessment</u></b> of the:</p> <ol style="list-style-type: none"> <li>(1) Layoff plans and schedule of the employer;</li> <li>(2) Potential for averting the layoff(s) in consultation with State or local economic development agencies, including private sector economic development entities;</li> <li>(3) Background and probable assistance needs of the affected workers;</li> <li>(4) Reemployment prospects for workers in the local community; and</li> <li>(5) Available resources to meet the short and long-term assistance needs of the affected workers.</li> </ol>
<p>(b) The <b>provision of information and access</b> to unemployment compensation benefits, comprehensive One-Stop system services, and employment and training activities, including information on the Trade Adjustment Assistance (TAA) program and the North American Free Trade Agreement (NAFTA)-TAA program (19 U.S.C. 2271 et seq.);</p>
<p>(c) The <b>provision of guidance and/or financial assistance in establishing a labor-management</b> committee voluntarily agreed to by labor and management, or a workforce transition committee comprised of representatives of the employer, the affected workers and the local community. The committee may devise and oversee an implementation strategy that responds to the reemployment needs of the workers. <b><u>The assistance to this committee may include:</u></b></p> <ol style="list-style-type: none"> <li>(1) The provision of training and technical assistance to members of the committee;</li> <li>(2) Funding the operating costs of a committee to enable it to provide advice and assistance in carrying out rapid response activities and in the design and delivery of Workforce Investment Act (<b>WIA</b>)-authorized services to affected workers. Typically, such support will last no longer than six months; and</li> <li>(3) Providing a list of potential candidates to serve as a neutral chairperson of the committee.</li> </ol>
<p>(d) The <b>provision of emergency assistance</b> adapted to the particular closing, layoff or disaster.</p>
<p>(e) The <b>provision of assistance to the local board and chief elected official(s) to develop a coordinated response</b> to the dislocation event and, as needed, obtain access to State economic development assistance. Such coordinated response may include the development of an application for National Emergency Grant under 20 CFR Part 671. (WIA Sections 101(38) and 134(a)(2)(A).)</p>

## Allowable Rapid Response Activities

Section 665.320: May other activities be undertaken as part of rapid response?

A State or designated entity may provide rapid response activities in addition to the activities required to be provided under Section 665.310. In order to provide effective rapid response upon notification of a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job dislocation, the State or designated entity may:

<p>(a) In conjunction, with other appropriate federal, State and local agencies and officials, employer associations, technical councils or other industry business councils, and labor organizations:</p> <ol style="list-style-type: none"><li>(1) <b>Develop prospective strategies</b> for addressing dislocation events, that ensure rapid access to the broad range of allowable assistance;</li><li>(2) <b>Identify strategies</b> for the aversion of layoffs; and</li><li>(3) <b>Develop and maintain mechanisms</b> for the regular exchange of information relating to potential dislocations, available adjustment assistance, and the effectiveness of rapid response strategies.</li></ol>
<p>(b) In collaboration with the appropriate State agency(ies), <b>collect and analyze information related to economic dislocations</b>, including potential closings and layoffs, and all available resources in the State for dislocated workers in order to provide an adequate basis for effective program management, review and evaluation of rapid response and layoff aversion efforts in the State.</p>
<p>(c) <b>Participate in capacity building</b> activities, including providing information about innovative and successful strategies for serving dislocated workers, with local areas serving smaller layoffs.</p>
<p>(d) Assist in <b>devising and overseeing strategies</b> for:</p> <ol style="list-style-type: none"><li>(1) Layoff aversion, such as prefeasibility studies of avoiding a plant closure through an option for a company or group, including the workers, to purchase the plant or company and continue it in operation;</li><li>(2) Incumbent worker training, including employer loan programs for employee skill upgrading; and</li><li>(3) Linkages with economic development activities at the federal, State and local levels, including federal Department of Commerce programs and available State and local business retention and recruitment activities.</li></ol>

Section 667.262: LWIAs may also use Rapid Response funds to support the following activities:

(a) Under WIA Section 181(e), WIA Title I funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. For purposes of this section, employer outreach and job development activities are directly related to training for eligible individuals.

(b) These employer outreach and job development activities include:

- (1) Contacts with potential employers for the purpose of placement of WIA participants;
- (2) Participation in business associations (such as chambers of commerce); joint labor management committees, labor associations, and resource centers;
- (3) WIA staff participation on economic development boards and commissions, and work with economic development agencies, to:
  - (i) Provide information about WIA programs,
  - (ii) Assist in making informed decisions about community job training needs, and
  - (iii) Promote the use of first source hiring agreements and enterprise zone vouchering services,
- (4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;
- (5) Subscriptions to relevant publications;
- (6) General dissemination of information on WIA programs and activities;
- (7) The conduct of labor market surveys;
- (8) The development of on-the-job training opportunities; and
- (9) Other allowable WIA activities in the private sector. (WIA Section 181(e).)

## Examples of the Categorization of Rapid Response Activities

Activity	Code	Required	Allowable	Prohibited
Conducting planning meeting with employer	20CFR665.310(a)	X		
Assessing layoff aversion potential	20CFR665.310(a)2	X		
Devising layoff aversion strategies with employer	20CFR665.320(d)		X	
Providing layoff aversion technical assistance to employer	20CFR667.262(b)		X**	
Providing information about services available in the One-Stops and setting up systems to provide on-site access to information and services	20CFR665.310(d)	X		
Conducting business services workshops	20CFR667.262(b)		X**	
Providing training orientation on industry specific opportunities (ex: Biotech)	20CFR665.310(d)	X		
Conducting orientation meeting with employees	20CFR665.310(b)	X		
Providing TAA orientation	20CFR665.310(b)	X		
Delivering/mailling Rapid Response informational materials	20CFR665.310(b)	X		
Coordinating Labor-Management/Workforce Transition Committee	20CFR665.310(c)	X		
Providing resources for food, shelter, clothing and other emergency assistance	20CFR665.310(d)	X		
Attending Regional Roundtable	20CFR665.320 (b)/(c)/(d)		X	
Attending conferences	20CFR665.320 (b)/(c)/(d)		X	
Collaborating with EDD/LMID to research business activity	20CFR665.320(b)		X	
Training affected workers to upgrade skills for another position in company				X
Reaching out to businesses	20CFR665.320(a)3 or (d)1		X	
Completing UI applications				X
Providing access to CalJobs and SkillsMatch on-site, using company's or mobile facility	20CFR665.310(b)	X		
Enabling participants to register with One-Stop Center on-site	20CFR665.310(b)	X		
Conducting interview technique workshops				X*
Conducting job search assistance and resume writing workshops				X*
Job fair or information expo focused on one or more dislocation events, at or not at the dislocation site	20CFR665.310(b)	X		
Job fair or information expo not related to a dislocation event				X

\* Local Workforce Investment Areas may conduct group workshops (e.g. job search assistance and/or resume writing workshops) as part of on-site Rapid Response to business closures or significant layoffs and charge the cost to their 25 Percent Rapid Response funds if they have determined, in consultation with the local Job Service manager, that Job Service staff are not available to conduct such workshops.

\*\* Allowable per State policy decision as part of employer outreach and job development activities authorized by WIA regulations Section 667.262(b) if funded with formula-allocated Rapid Response funds or, if specifically authorized, by yearly directive describing the use of Rapid Response Competitive-Priorities funds for that program year.